

PUBLIC NOTICE



FEDERAL COMMUNICATIONS COMMISSION

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FEDERAL-STATE JOINT BOARD ON UNIVERSAL SERVICE SEEKS COMMENT ON REVIEW OF THE DEFINITION OF UNIVERSAL SERVICE

CC Docket No. 96-45

Released: August 21, 2001

Comment Date: 60 days from publication in the Federal Register

Reply Comment Date: 120 days from publication in the Federal Register

By this Public Notice, the Federal-State Joint Board on Universal Service (Joint Board) invites comment regarding its review of the definition of universal service. In 1997, based on consideration of the Joint Board's recommendations, the Commission designated nine "core" services that are eligible for universal service support: single-party service; voice grade access to the public switched telephone network; Dual Tone Multifrequency signaling or its functional equivalent; access to emergency services; access to operator services; access to interexchange service; access to directory assistance; and toll limitation services for qualifying low-income consumers.¹ The Commission recently asked the Joint Board to review this list and, if warranted, recommend modifications.²

The Telecommunications Act of 1996³ provides that "[u]niversal service is an evolving level of telecommunications services that the Commission shall establish periodically . . . , taking into account advances in telecommunications and information technologies and services."⁴ It also

¹ Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 8807-25, para. 56-87 (1997) (First Report and Order) (subsequent history omitted).

² Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Order, 15 FCC Rcd 25257 (2000) (Referral Order). The Commission also asked the Joint Board to undertake a review of Lifeline and Link Up service for low-income customers, including a review of the income eligibility criteria. *Id.* at 25257-59 paras. 2, 4. We intend to seek comment on these matters in the near future. In accordance with the Referral Order, we do not at this time intend to review the services supported for schools, libraries, and rural health care providers pursuant to section 254(c)(3) of the 1996 Act, 47 U.S.C. § 254(c)(3), or to consider the creation of new universal service mechanisms to promote broadband deployment. See Referral Order, 15 FCC Rcd at 25258, para. 3, n.7.

³ Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996) (1996 Act). The 1996 Act amended the Communications Act of 1934. 47 U.S.C. §§ 151, et seq.

⁴ 47 U.S.C. § 254(c)(1).

provides that the Joint Board and the Commission shall base policies for the preservation and advancement of universal service on several principles, including: (1) quality services should be available at just, reasonable, and affordable rates; (2) access to advanced telecommunications and information services should be provided in all regions of the Nation; and (3) consumers in all regions of the nation should have access to telecommunications and information services that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas.⁵

The Joint Board invites comment on what services, if any, should be added to or removed from the list of core services eligible for federal universal service support and how those core services should be defined. Commenters should address the four definitional criteria that the Joint Board and the Commission are required to consider under the 1996 Act. Pursuant to section 254(c)(1) of the 1996 Act, the Joint Board and the Commission must consider the extent to which the services in question (1) “are essential to education, public health, or public safety;” (2) “have, through the operation of market choices by customers, been subscribed to by a substantial majority of residential customers;” (3) “are being deployed in public telecommunications networks by telecommunications carriers;” and (4) “are consistent with the public interest, convenience, and necessity.”⁶

In addition, commenters should address the implications of any proposed modifications in terms of section 214(e) of the 1996 Act, which requires carriers to offer each of the core services to be eligible for universal service support.⁷ Commenters also should estimate the annual cost of any proposed modifications in the list of core services, and explain the derivation of their estimates.⁸ If the cost is expected to change significantly over time, commenters should provide an estimate for each of the first five years. Commenters may also wish to address the availability of functional substitutes for a service, the extent to which consumers may have access to the service in locales other than their own residences (*e.g.*, public payphone, worksite, public facilities), and whether providing support for the service would affect competition in its delivery.⁹ Finally, commenters may also wish to address the implications for any modifications in the list of core services of ongoing network modernization trends.

⁵ 47 U.S.C. § 254(b).

⁶ 47 U.S.C. § 254(c)(1)(A)-(D).

⁷ 47 U.S.C. § 214(e)(1)(A).

⁸ See 47 U.S.C. § 254(b)(5) (universal service support should be “sufficient” to preserve and advance universal service); First Report and Order, 12 FCC Rcd at 8811-12, para. 64 (“supporting an overly expansive definition of core services could adversely affect all consumers by increasing the expense of the universal service program and, thus, increasing the basic cost of telecommunications for all.”); see also *Alenco v. FCC*, 201 F.3d 608, 620 (5th Cir. 2000) (“excessive funding may itself violate the sufficiency requirements of the Act.”).

⁹ See First Report and Order, 12 FCC Rcd at 8801-03, paras. 46-51 (federal support mechanisms should be competitively neutral, neither unfairly advantaging nor disadvantaging particular service providers or technologies).

The Commission asked the Joint Board to consider as part of its review the record on requests to redefine voice grade access for universal service purposes.¹⁰ The Commission previously rejected arguments for a higher level of bandwidth capacity, in the *First Report and Order*, concluding that “a network transmission component of Internet access beyond voice grade access should not be supported” pursuant to section 254(c)(1).¹¹ We invite commenters to update the record on the definition of voice grade access, including whether support for a network transmission component of Internet access beyond the existing definition of voice grade access is warranted at this time.¹² We also seek additional comment on technical issues involved in modifying the current standard, including factors other than bandwidth that affect modem performance, and whether modification would encourage investment in enhanced analog modem performance to the detriment of investment in high-speed and advanced services.

We also invite comment on whether any advanced or high-speed services should be included within the list of core services. Commenters should address the questions set forth above, and should specify the standard or level of service to which the comments apply.¹³

In addition, we invite comment on whether “soft dial tone” or “warm line” services should be included within the list of core services. These services enable an otherwise disconnected line to be used to contact emergency services (911) and the local exchange carrier’s central business office. In particular, we invite comment on the extent to which these services are essential to public health or safety, and how such connections to eligible telecommunications carriers may be provided consistent with the principles of competitive neutrality.

¹⁰ Referral Order, 15 FCC Rcd at 25258, para. 3, n.10 and accompanying text. In December, 1999, the Commission’s Common Carrier Bureau sought comment on requests by the Rural Utilities Service and three state commissions to revise the bandwidth requirement for voice grade access from a minimum frequency range of 300 to 3,000 Hertz (Hz) to approximately 200 to 3,500 Hz, based on concerns that the current standard does not ensure that subscribers using 28.8 kbps modems for Internet access in rural areas can achieve data transmission speeds reasonably comparable to those achieved by subscribers using the same modems in non-rural areas. Common Carrier Bureau Seeks Comment on Requests to Redefine “Voice Grade Access” for Purposes of Federal Universal Service Support, CC Docket No. 96-45, Public Notice, DA 99-2985 (rel. December 22, 1999).

¹¹ First Report and Order, 12 FCC Rcd at 8823, para. 83; see *id.* at 8811-12, para. 64.

¹² We note that the Rural Task Force plan for rural high-cost reform states that the list of core services “should evolve to include access to information services at a rate that is reasonably comparable to that provided in urban areas.” See Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Further Notice of Proposed Rulemaking, FCC 01-8 (rel. January 12, 2001).

¹³ See, e.g., Inquiry Concerning the Deployment of Advanced Telecommunications Capability to all Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, CC Docket No. 98-146, Second Report, 15 FCC Rcd 20913, 2019-20, paras. 10-11 (2000) (defining as “advanced” those services with a speed of at least 200 kilobits per second (kbps) in both directions and as “high-speed” those services with over 200 kbps in at least one direction).

Finally, we invite comment on whether intrastate or interstate toll services, expanded area service, or prepaid calling plans should be included in the list of supported services.¹⁴

Pursuant to sections 1.415 and 1.419 of the Commission's rules, interested parties may file comments 60 days from publication in the Federal Register, and reply comments 120 days from publication in the Federal Register.¹⁵ Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies.¹⁶ Comments filed through the ECFS can be sent as an electronic file via the Internet to <<http://www.fcc.gov/e-file/ecfs.html>>. Only one copy of an electronic submission must be filed. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and CC Docket No. 96-45. Parties also may submit electronic comments by Internet e-mail. To receive filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply. Parties who choose to file by paper must file an original and four copies of each filing.

All paper filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554. Parties who choose to file by paper also should send three copies of their filings to Sheryl Todd, Accounting Policy Division, 445 12th Street, S.W., Room 5-B540, Washington, D.C. 20554. In addition, parties who choose to file by paper must send copies of their comments on diskette to the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, N.W., Washington, D.C. 20037. Such submissions should be on a 3.5-inch diskette formatted in an IBM-compatible format using Word or compatible software. The diskette should be accompanied by a cover letter and should be submitted in "read only" mode. The diskette should be clearly labeled with the commenter's name, CC Docket No. 96-45, the type of pleading (comment or reply comment), the date of submission, and the name of the electronic file on the diskette. The label should also include the following phrase "Disk Copy - Not an Original." Each diskette should contain only one party's pleadings, preferably in a single electronic file.

For further information, please contact Greg Guice, Accounting Policy Division, Common Carrier Bureau at (202) 418-7400, TTY (202) 418-0484.

¹⁴ See Referral Order, 15 FCC Rcd at 25258, para. 2. See also Federal-State Joint Board on Universal Service; Promoting Deployment and Subscribership in Unserved and Underserved Areas, Including Tribal and Insular Areas, CC Docket No. 96-45, Twelfth Report and Order, Memorandum Opinion and Order, and Notice of Proposed Rulemaking, 15 FCC Rcd. 12208, 12238 (2000).

¹⁵ 47 C.F.R. §§ 1.415, 1.419.

¹⁶ See Electronic Filing of Documents in Rulemaking Proceedings, 63 Fed. Reg. 24,121 (1998).